

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

TERRY RICHARDS,

Case No. 18-CV-1201 (JNE/DTS)

Plaintiff,

v.

**ORDER and REPORT AND
RECOMMENDATION**

TOM ROY; KATHRYN HALVORSON;
NOLA KAROW; NANETTE LARSON;
JODY OHNSTAD; RHONDA
THOMPSON; CENTURION OF
MINNESOTA L.L.C.; DOCTOR DAVID
PAULSON; DARIN HAUGLAND;
ITASCA GRAND COUNTY JAIL; and
ITASCA GRAND CLINIC HOSPITAL,
all in their official and individual
capacities,

Defendants.

IT IS HEREBY ORDERED THAT:

1. The application to proceed *in forma pauperis* of plaintiff Terry Richards [ECF No. 2] is GRANTED.
2. Richards must submit a properly completed Marshal Service Form (Form USM-285) for each defendant. If Richards does not complete and return the Marshal Service Forms within 30 days of this order, it will be recommended that this matter be dismissed without prejudice for failure to prosecute. Marshal Service Forms will be provided to Richards by the Court.

3. After the return of the completed Marshal Service Forms, the Clerk of Court is directed to seek waiver of service from each of the defendants in their personal capacities, consistent with Rule 4(d) of the Federal Rules of Civil Procedure.
4. If a defendant sued in his or her personal capacity fails without good cause to sign and return a waiver within 30 days of the date that the waiver is mailed, the Court will impose upon that defendant the expenses later incurred in effecting service of process. Absent a showing of good cause, reimbursement of the costs of service is mandatory and will be imposed in all cases in which a defendant does not sign and return a waiver of service form. *See* Fed. R. Civ. P. 4(d)(2).
5. The U.S. Marshals Service is directed to effect service of process on each of their defendants in their official capacities as officers or employees of the State of Minnesota consistent with Rule 4(j) of the Federal Rules of Civil Procedure.

IT IS FURTHER RECOMMENDED THAT Richards's motion for summary judgment [ECF No. 3] be DENIED WITHOUT PREJUDICE. Service has not yet been effected in this matter, and defendants have not yet had an opportunity to respond to the complaint. Although a party may file a motion for summary judgment at any time until 30 days after the close of discovery, *see* Fed. R. Civ. P. 56(b), such motions are generally better reserved until after the period for discovery has closed, especially where the

relevant facts are likely to be disputed. Richards provides no reason to depart from the usual course in this matter.

Dated: June 18, 2018

s/ David T. Schultz
David T. Schultz
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).